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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/520,097	01/03/2005	Jerome Couvreur	930108-2005	9148

7590 04/20/2007  
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EXAMINER

FISHMAN, MARINA

ART UNIT PAPER NUMBER

2832

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/20/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/520,097	COUVREUR ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Marina Fishman	2832	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 26 February 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 6-8 is/are rejected.
- 7) ☒ Claim(s) 4 and 5 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>02/26/2007</u> . | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *General status*

1. This is a Final Action on the Merits. Claims 1 - 8 are pending in the case and are being examined.

### *Claim Rejections - 35 USC § 112*

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 3 – 7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 3, it is not clear what is meant by “**permanently** divert the crank pin”. As the crank pin can be moved from one position to the another, each of the of the position of the crank pin is temporary. Claim 6 also has similar recitation.

### *Claim Rejections - 35 USC § 103*

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1 – 3 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rutterschm [FR 2,473,221] in view of Menetrier et al. [US 6,392,374].

Regarding Claims 1- 3 and 8, Rutterschm [Figures 1- 4] discloses a device for manual control of the position of switching means comprising:

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- two extreme positions [Figure 1, left (top term.37 connected to top term.36) and right (bottom term.37 connected to bottom top term.36) tracks] and an intermediate position [no terminals connected], provided with a crank [connected to 14] with a crank pin [10];
- a slider [14] that can move in translation, has a rest position, the tracks allows the crank pin to be guided towards three zones of the slider (portions of the tracks), in which the position is stable.

Regarding Claims 1 - 3 and 8, Rutterschm also discloses terminals 52 and 31- connected; terminals 53 and 31- connected and terminals 52, 53, 31 - not connected, however, Rutterschm does not disclose "electric powering of the motor for operating a closure, privacy or sun-protection element" and "the three positions correspond to three switching means." Menetrier et al. disclose a control means for electric powering of the motor for forward and reverse positions by selectively connecting terminals [Figure 2, contacts P1, N connected, motor ON, forward direction; and P2, N, motor ON, reverse direction]. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the switching means of Rutterschm for OPERATING the motor of Menetrier et al. in order to control all three switching positions of the motor. Regarding Claims 3 and 6, the slider has one means tracks [15a, 15b, 15 c] to divert the crank pin [16], which comprises plurality of levels. For Claim 7, the groove [15] of the slider is taken as T-groove.

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6. Claims 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rutterschm (FR 2,473,221) in view of Menetrier et al. (US 6,392,374) as applied to claims 1-3 and 8 above, and further in view of Terajima et al. (US 4,531,026).

Rutterschm and Menetrier et al. discloses claimed invention, however do not disclose the details of the track Terajima et al. disclose contour of the track, which comprises several levels and ramps [Figure 5B]. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide a plurality of levels and ramp in the tracks of Rutterschm as suggested by Terajima et al. so that the pin can gradually guided in the track.

***Allowable Subject Matter***

7. Claims 4 and 5 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

8. Applicant's arguments filed 2/26/07 have been fully considered but they are not persuasive.

In response to the 35 USC, 112, second paragraph rejection, the Applicant has explained the meaning of the word "permanently". According to MPEP – "Where applicant acts as his or her own lexicographer to specifically define a term of a claim contrary to its ordinary meaning, the written description must clearly redefine the claim term and set forth the uncommon definition so as to put one reasonably skilled in the art on notice that the applicant intended to so redefine that claim term. *Process Control*

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*Corp. v. HydReclaim Corp.*, 190 F.3d 1350, 1357, 52 USPQ2d 1029, 1033 (Fed. Cir. 1999).” The term “permanently” in claim 3 is used by the claim to mean “a means is provided for making it possible to direct in a permanent way the crank pin from same tracks”, while the accepted meaning is “lasting or remaining without essential change” [The American Heritage Dictionary, 4<sup>th</sup> Edition, 2000.] The term is indefinite because the specification does not clearly redefine the term. The definition provided is also deficient on the ground that (a) it is inappropriate to define the term [permanently] using variant of the same term [permanent] (b) the part of the definition “making it *possible* to direct in a permanent way the crank pin from same tracks, only indicates possibility and (c) the pin does travel the same tracks again and again during the repeat operations [see Figures 5a-5l]. Examiner suggests reciting the travel path of the pin in the tracks to define the operation, rather than reciting “permanently”.

The Applicant has also argued, Rutterschm relates to an electric switch and not specifically to an electric switch for controlling the electric power of a motor for operating a closure, privacy or sun-protection element. Applicants submit that Rutterschm does not disclose that the slider has any rest position. The slider (14) can slide in the sleeve; however, it has no rest position because Rutterschm does not disclose the use of any spring or equivalent means for returning the slider in a rest position. However, the Examiner wishes to point out that Menetrier et al. disclose a control means for electric powering of the motor for forward and reverse positions by selectively connecting terminals with contacts P1, N connected, motor ON, forward direction; and P2, N, motor

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ON, reverse direction. As to the argument that Rutterschm does not disclose spring, the Examiner wishes to point out that the Rutterschm discloses spring at 12.

***Conclusion***

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marina Fishman whose telephone number is 571-272-1991. The examiner can normally be reached on 7-5 M-T.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Elvin Enad can be reached on 571-272-1990. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Marina Fishman  
April 16, 2007

  
ELVIN ENAD  
SUPERVISORY PATENT EXAMINER  
16APR2007